

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD CONRAD WITBRODT, #272951,

Petitioner,

v.

CASE NO. 2:09-CV-11046
HONORABLE PAUL D. BORMAN

BLAINE LAFLER,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

This matter is before the Court on Petitioner's motion for reconsideration, brought pursuant to Federal Rule of Civil Procedure 59, concerning the Court's January 20, 2010 opinion and order granting Respondent's motion to dismiss and dismissing the petition for a writ of habeas corpus on statute of limitations grounds.

Petitioner's motion must be denied. A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). The Court properly dismissed the petition for failure to comply with the one-year statute of limitations application to federal habeas actions. Petitioner's convictions became final on June 3, 2002 and he did not seek collateral review in the state courts until March 29, 2007, well after the one-year limitations period for filing his habeas petition expired. Petitioner was aware or could have reasonably become aware of the factual basis for his claims at the time of his trial and direct appeals – or, at the very latest, well within the one-year period for

seeking federal habeas review. Moreover, Petitioner has not presented new reliable evidence of his actual innocence. Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3). Accordingly, the Court **DENIES** Petitioner's motion for reconsideration. This case is closed.

IT IS SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: February 18, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 18, 2010.

s/Denise Goodine
Case Manager